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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,667	12/01/2000	Thomas R. Colligan	16356.567 (DC-02601)	2026
27683	7590	11/18/2004		
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			EXAMINER CHUONG, TRUC T	
			ART UNIT 2179	PAPER NUMBER

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,667

Applicant(s)

COLLIGAN ET AL.

Examiner

Truc T Chuong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10,12-18,20-24,30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,12-18,20-24,30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to RCE filed 07/16/04.
2. Claims 1-2, 4-10, 12-18, 20-24, and 30-31 are pending in this application. Claims 1, 9, 17, 30 and 31 are independent claims. In the Amendment, claims 1, 9, 17, 30, and 31 are amended; claims 3, 11, 19, and 25-29 are cancelled. This action is made non-final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 8-10, 16-18, 24, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singer et al. (U.S. Patent No. 6,314,473 B1) in view of Funches et al. (U.S. Patent No. 5,305,160).

As to claim 1, Singer teaches a method of providing acoustic management in a computer comprising:

receiving from a user instructions regarding a selected acoustic level via an interface (e.g., col. 6 lines 33-45, and figs. 4-8);

using an acoustic level bar and a computer input device for selecting a desired acoustic level (e.g., col. 6 line 33-col. 7 line 15, and figs. 4-8);

Singer teaches a percentage of a maximum possible acoustic level, the acoustic level selected (e.g., col. 6 line 33-col. 7 line 15, and figs. 4-8); however Singer does not

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teach a dial to indicate the levels. It is well known and would have been obvious to modify a digital level indicator to an analog dial indicator or vice versa to improve the visualization when working on different screen layouts;

Singer teaches adjusting an operational level of at least one subsystem of the computer to achieve the selected acoustic level (e.g., col. 3 line 65-col. 4 line 13, col. 6 line 33-col. 7 line 15, and figs. 4-8); however, the modified Singer does not teach performing a pre-test to determine current hard disk drive seek settings and current system settings. Funches clearly teaches pre-test a disk drive to determine the actual performance of each zone in a RAM (e.g., col. 9 lines 54-67), and calibration routine is initiated by a system microprocessor whenever the computer is turned on (e.g., col. 10 lines 1-15). It would have been obvious at the time of the invention, that a person with ordinary skill in the art would want to have the pre-test and the calibration to the current system and the hard drive of Funches to the acoustic level control of Singer to allow an operator to easily control, adjust, and monitor the performance of a computer system.

As to claim 2, Singer teaches the method of claim 1 further comprising:

subsequent to the adjusting, demonstrating to the user the selected acoustic level (e.g., col. 8 lines 1-20).

As to claim 8, Singer teaches the method of claim 1 further comprising, prior to the receiving, displaying a graphical user interface for enabling the user to select an acoustic level (e.g., col. 3 line 65-col. 4 line 13, col. 6 line 33-col. 7 line 15, and figs. 4-8).

As to claims 9-10, they are system claims of method claims 1-2. Note the rejections of claim 1-2 above respectively.

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As to claim 16, it is a system claim of method claim 8. Note the rejection of claim 8 above.

As to claim 17, it is individually similar in scope to claim 9 above; therefore, rejected under similar rationale.

As to claim 18, it is individually similar in scope to claim 10 above; therefore, rejected under similar rationale.

As to claim 24, it is similar in scope to claim 16 above; therefore, rejected under similar rationale.

As to claims 30 and 31, they can be rejected similar in scope to claim 1. Note the rejection of claim 1 above.

4. Claims 4-7, 12-15, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singer et al. (U.S. Patent No. 5,687,334) in view of Funches et al. (U.S. Patent No. 5,305,160), and further in view of Chari (U.S. Patent No. 6,046,742).

As to claim 4, modified Singer teaches the method of claim 1 wherein the adjusting an operational level of at least one subsystem or build-in components of the computer (note the rejection of claim 1 above); however, Singer does not clearly teach adjusting the speed of an internal fan of the computer system. Chari clearly shows that using of a GUI to adjust the speed of fans in the computer system (e.g., col. 13 lines 1-40 and figs. 17-18). It would have been obvious at the time of the invention that a person with ordinary skill in the art would want to be able to control the speed of fan of Chari in the modified Singer to provide fully control functionality of the fans in the computer system to save energy.

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As to claim 5, modified Singer in view of Chari teaches the method of claim 4 wherein the adjusting an operational level of at least one subsystem of the computer comprises making corresponding adjustments to overall operation of a portion of the computer to maintain a heat production level of the computer at a level that can be managed by the internal fan operating at the adjusted speed (Chari, Temperature Sensors, col. 13 lines 38-60 and figs. 17-21).

As to claim 6, modified Singer in view of Chari teaches the method of claim 1 wherein the adjusting an operational level of at least one subsystem of the computer is performed using redefined power management levels of the computer (Chari, figs. 22-24).

As to claim 7, modified Singer in view of Chari teaches the method of claim 1 wherein the adjusting an operational level of at least one subsystem of the computer comprises adjusting a speed of a peripheral bus, with corresponding adjustments to a speed of at least one peripheral device connected to the peripheral bus (DIMM, figs. 15-16).

As to claims 12-15, they are system claims of method claims 4-7. Note the rejections of claims 4-7 above respectively.

As to claims 20-23, they are similar in scope to claims 12-15 above; therefore, rejected under similar rationale.

Response to Arguments

Applicant's arguments filed 07/16/04 have been fully considered but they are not persuasive.

Applicant has argued there is no suggestion to combine among references. Examiner strongly disagrees with the applicant because In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be

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established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, using a GUI of computer system for conveniently performing the acoustic level control allowing an operator to easily control, adjust, and monitor the performance of the system is well known in the art and obvious for modifying such features.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Katayama et al. (U.S. Patent No. 6,747,678 B1) teach control bar, acoustic level, GUI, and parameters (cols. 2-7 and figs. 4-6).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Truc T Chuong whose telephone number is 571-272-4134. The examiner can normally be reached on M-Th and alternate Fridays 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather R. Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Truc T. Chuong

10/29/04

BA HUYNH
PRIMARY EXAMINER